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DIRECTOR OFFICE
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In re Application of
Boon-Lock Yeo, et al.
Application No. 09/470,299
Filed: December 22, 1999
For: **METHOD AND APPARATUS FOR VIDEO DECODING ON A MULTIPROCESSOR SYSTEM**

DECISION ON PETITION

This is a decision on the renewed petition to withdraw the holding of abandonment filed January 14, 2005.

The application was held abandoned for failure to respond in a timely and effective manner to the Final Office Action mailed on June 19, 2003. A Notice of Abandonment was mailed July 1, 2003.

Petitioner states within their renewed petition that the Advisory Action mailed September 9, 2003 was never received, that applicants were not aware that the response after final did not place the application in condition for allowance and that the Office admits the advisory action was returned to the Patent Office by the U.S. postal service. Petitioner requests the withdrawal of the holding of abandonment because the advisory action was not delivered to applicant.

The application record reveals that an after final amendment submitted on August 21, 2003. On September 9, 2003, the examiner determined that the After Final Response filed August 21, 2003 failed to place the application in condition for allowance and set forth that decision in an Advisory Action. As stated in the decision mailed November 10, 2004 and as argued by petitioner, the advisory action was returned to the U.S. Patent and Trademark Office by the U.S. Postal service on September 16, 2003. A Notice of Abandonment was mailed on April 16, 2004 that references the reply on August 21, 2003, specifically that it did not constitute a proper reply under 37 C.F.R. §1.113(a) to the final rejection.

As stated within the decision mailed November 10, 2004, a reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. The filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance.

Although the record clearly evidences that the advisory action was not received by applicant, failure to receive an advisory action after submission of an amendment after final does not negate the fact that the mere submission of an amendment after final does not stop the statutory period for reply from running. It is incumbent upon applicants to inquire about the status of an application when an amendment after final is submitted, especially when a response to said amendment has not been received.

If a Notice of Appeal was not filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), then the application would appropriately become abandoned. The application record does not reveal that a Notice of Appeal was filed. Although applicant's lack of receipt of the advisory action is regretted, failure to timely file a Notice of Appeal by applicants resulted in the expiration of the maximum extendable statutory period for reply to the final rejection.

Accordingly, the petition is **DENIED**.

The application is being returned to the abandoned files repository.

Petitioner may wish to file a petition to revive the application under 37 C.F.R. 1.137.

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Communications